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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/542,990	07/21/2005	Roland C Santa Ana	107.01 US	7826				
11737 Hoang Steve NGO, ESQ P.O. Box 40531 Arlington, VA 22204	7590 01/19/2011		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">GRANT, ALVIN J</td></tr></table>		EXAMINER		GRANT, ALVIN J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,990

Applicant(s)

SANTA ANA, ROLAND C

Examiner

ALVIN J. GRANT

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 27-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Te 6,571,666 in view of Kolschner et al. 6,339,974.

Te discloses a hammer for releasably retaining nails of varying sizes, the hammer comprising: a handle **(112)**, a hammerhead **(114)**; a plurality of nail retention grooves of predetermined sizes located on the side surface and at least one nail retention groove **(at 124")** of a predetermined size located on a bottom surface of the hammerhead **(Fig. 12)** and configured to align corresponding selected nails toward a nail striking orientation; and each of the nail retention groove is dimensioned to releasably accept both a shaft of the nail and a head of the nail, each of the of the grooves comprising: a partially cylindrical nail body groove portion of substantially uniform radius contiguous with a frustoconical shaped groove for accommodating the nail head; and multiple magnetic cores **(128)** disposed within the hammerhead in magnetic communication with the nail retention groove. Te does not specifically disclose flattened side surfaces. Kolschner et al. teaches that hammerheads may have flattened side surfaces as a matter of design choice. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Te's hammerhead to have

flattened sides as taught by Kolschner et al. as a matter of design choice. Furthermore, it would have been an obvious matter of design choice to make the different portions of the Te's hammerhead of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

3. **Claims 30 and 31**, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Te and Kotschner et al in view of Hu 6,283,44 and in further view of Caspall 4,726.

Te as modified is described above. The modified Te does not specifically disclose a pair of flared claws with each claw having a nail removal void. Hu discloses a hammer having a pair of flared claws in which the each claw has a nail removal void so as to facilitate the accommodation of nails of different sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the modified Te's hammer head to have a pair of flared claws in which the each claw has a nail removal void as taught by Hu so as to facilitate the accommodation of nails of different sizes. Additionally, the modified Te's does not specifically disclose the top portion of the hammer being rounded laterally. Caspall (best shown in Fig. 2) discloses a hammer in which the head is rounded laterally so as to enhance the maneuverability of the hammer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the modified Te's hammer head rounded laterally as taught by Caspall so as to enhance the maneuverability of the hammer.

4. **Claims 33-38**, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Te in view of Hu.

Te and Hu are described above. **Referring to claims 33, 34, 36 and 37**, Te discloses a hammer for releasably retaining nails of varying sizes, the hammer comprising: a handle; and a hammerhead, a curved claw body, a throat, a neck, and a striking face (**Fig. 12**), wherein the face and the throat have a nail holder and starter comprised of a plurality of side vertical slots and at least one bottom vertical slot for holding and starting nails for hammering, thereby permitting placement of nails of diverse size, length and width, and wherein the side vertical slots have small magnets attached about said side vertical slots for magnetic attraction of nails to the side vertical slots, wherein the at least one bottom vertical slot has at least one small magnet attached about the at least one bottom vertical slot for magnetic attraction of at least one nail to the at least one bottom vertical slot (**4:28-30**), and each of the side vertical slots and the at least one bottom vertical slot adapted for straightening the nails when hammering and being a side self-releasing groove; and wherein each of said side vertical slots and said at least one bottom vertical slot includes a half conical shape design (**127**) on top of each slot so as to slide off the nail head away from said hammer during upswing. Te does not specifically disclose a pair of curved claws wherein the curved claws have a small curved claw end and a large curve claw end. Hu discloses hammerhead having a pair of curved claws wherein the curved claws have a small curved claw end (**at 60**) and a large curve claw end (**at 50**) so as to effectively accommodate nails of differing sizes. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to have made Te's hammerhead to have a pair of curved claws wherein the curved claws have a small curved claw end and a large curve claw end as taught by Hu so as to effectively accommodate nails of differing sizes.

Referring to claims 35 and 38, Te does not specifically disclose the hammerhead having an eye. Hu discloses a hammerhead having an eye (Fig. 5) so as to facilitate the accommodating of a replacement handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Te's hammerhead to have an eye as taught by Hu so as to facilitate the accommodating of a replacement handle.

Response to Arguments

5. Applicant's arguments filed 12/10/10 have been fully considered but they are not persuasive.
6. In response to Applicant's arguments that combination of US Patent 6,571,666 (to Te), US Patent 6,339,974 (to Kotschner), US Patent 6,283,449 (to Hu) and US Patent 4,723,582 (to Caspall) does not disclose "at least one nail-retention groove of a pre-determined size located on a bottom surface", this feature is disclosed in Fig. 12 at 124" of Te.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN J. GRANT whose telephone number is (571)272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alvin J Grant/

Examiner, Art Unit 3723